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AMENDED IN ASSEMBLY APRIL 8, 2013  
AMENDED IN ASSEMBLY MARCH 19, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 52**

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**Introduced by Assembly Member Gatto  
(Principal coauthor: Assembly Member Alejo)  
(Coauthors: Assembly Members Chesbro and Lowenthal)**

December 21, 2012

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An act *to amend Section 5097.94 of, and to add Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3 to* the Public Resources Code, relating to Native Americans.

### LEGISLATIVE COUNSEL'S DIGEST

AB 52, as amended, Gatto. Native Americans: California Environmental Quality Act.

Existing law, the Native American Historic Resource Protection Act, establishes a misdemeanor for unlawfully and maliciously excavating

upon, removing, destroying, injuring, or defacing a Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historic Resources.

The California Environmental Quality Act, referred to as CEQA, requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA requires the lead agency to provide a responsible agency with specified notice and opportunities to comment on a proposed project. CEQA requires the Office of Planning and Research to prepare and develop, and the Secretary of the Natural Resources Agency to certify and adopt, guidelines for the implementation of CEQA that include, among other things, criteria for public agencies to following in determining whether or not a proposed project may have a significant effect on the environment.

This bill would specify that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource, as defined, is a project that may have a significant effect on the environment. The bill would require a lead agency to ~~consult~~ *begin consultation* with a Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe requested to the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area and the tribe requests consultation, prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project. The bill would specify examples of mitigation measures that may be considered to avoid or minimize impacts on tribal cultural resources. The bill would make the above provisions applicable to projects that have a notice of preparation or a notice of negative declaration filed or mitigated negative declaration on or after January 1, 2015. The bill would require the Office of Planning and Research to revise the guidelines to separate the consideration of cultural resources from that for paleontological resources and add consideration of tribal cultural resources. By requiring

the lead agency to consider these effects relative to Native Americans and to conduct additional consultations, this bill would impose a state-mandated local program.

*Existing law establishes the Native American Heritage Commission and vests the commission with specified powers and duties.*

*This bill would additionally require the commission to provide each Native American tribe, as defined, on or before July 1, 2016, with a list of all public agencies that may be a lead agency within the geographic area in which the tribe is traditionally and culturally affiliated, the contact information of those agencies, and information on how the tribe may request those public agencies to notify the tribe of projects within the jurisdiction of those public agencies for the purposes of requesting consultation.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Current state law provides a limited measure of protection
- 4 for sites, features, places, objects, and landscapes with cultural
- 5 value to California Native American tribes.
- 6 (2) Existing law provides limited protection for Native American
- 7 sacred places, including, but not limited to, places of worship,
- 8 religious or ceremonial sites, and sacred shrines.
- 9 (3) The California Environmental Quality Act (Division 13
- 10 commencing with Section 21000) of the Public Resources Code)
- 11 does not readily or directly include California Native American
- 12 tribes' knowledge and concerns. This has resulted in significant
- 13 environmental impacts to tribal cultural resources and sacred
- 14 places, including cumulative impacts, to the detriment of California
- 15 Native American tribes and California's environment.
- 16 (4) As California Native Americans have used, and continue to
- 17 use, natural settings in the conduct of ~~spiritual practices~~, religious

1 observances, ceremonies, and cultural practices and beliefs, these  
2 resources reflect the tribes' continuing cultural ties to the land and  
3 their traditional heritages.

4 (5) Many of these archaeological, historical, cultural, and sacred  
5 sites are not located within the current boundaries of California  
6 Native American reservations and rancherias, and therefore are  
7 not covered by the protectionist policies of tribal governments.

8 (b) In recognition of California Native American tribal  
9 sovereignty and the unique relationship of California local  
10 governments and public agencies with California Native American  
11 tribal governments, and respecting the interests and roles of project  
12 proponents, it is the intent of the Legislature, in enacting this act,  
13 to accomplish all of the following:

14 (1) Recognize that California Native American prehistoric,  
15 historic, archaeological, cultural, and sacred places are essential  
16 elements in tribal cultural traditions, heritages, and identities.

17 (2) Establish a consultation process for federally recognized  
18 Native American tribes in California in the California  
19 Environmental Quality Act.

20 (3) Establish a new category of resources in the California  
21 Environmental Quality Act called "tribal cultural resources" that  
22 considers the tribal cultural values in addition to the scientific and  
23 archaeological values when determining impacts and mitigation.

24 (4) Recognize that California Native American tribes may have  
25 expertise with regard to their tribal history and practices, which  
26 concern the tribal cultural resources with which they are  
27 traditionally and culturally affiliated. Because the California  
28 Environmental Quality Act calls for a sufficient degree of analysis,  
29 tribal knowledge about the land and tribal cultural resources at  
30 issue should be included in environmental assessments for projects  
31 that may have a significant impact on those resources.

32 (5) Establish a meaningful consultation process between  
33 California Native American tribal governments and lead agencies,  
34 respecting the interests and roles of project proponents and the  
35 level of required confidentiality concerning tribal cultural  
36 resources, at the earliest possible point in the California  
37 Environmental Quality Act environmental review process, so that  
38 tribal cultural resources can be identified, and culturally appropriate  
39 mitigation and mitigation monitoring programs can be considered  
40 by the decisionmaking body of the lead agency.

1 (6) Ensure that local and tribal governments, public agencies,  
2 and project proponents have information available, early in the  
3 California Environmental Quality Act environmental review  
4 process, for purposes of identifying and addressing potential  
5 adverse impacts to tribal cultural resources and to reduce the  
6 potential for delay and conflicts in the environmental review  
7 process.

8 (7) Enable California Native American tribes to manage and  
9 accept conveyances of, and act as caretakers of, tribal cultural  
10 resources.

11 (8) Establish that a substantial adverse change to a tribal cultural  
12 resource has a significant effect on the environment.

13 *SEC. 2. Section 5097.94 of the Public Resources Code is*  
14 *amended to read:*

15 5097.94. The commission shall have the following powers and  
16 duties:

17 (a) To identify and catalog places of special religious or social  
18 significance to Native Americans, and known graves and  
19 cemeteries of Native Americans on private lands. The identification  
20 and cataloguing of known graves and cemeteries shall be completed  
21 on or before January 1, 1984. The commission shall notify  
22 landowners on whose property such graves and cemeteries are  
23 determined to exist, and shall identify the Native American group  
24 most likely descended from those Native Americans who may be  
25 interred on the property.

26 (b) To make recommendations relative to Native American  
27 sacred places that are located on private lands, are inaccessible to  
28 Native Americans, and have cultural significance to Native  
29 Americans for acquisition by the state or other public agencies for  
30 the purpose of facilitating or assuring access thereto by Native  
31 Americans.

32 (c) To make recommendations to the Legislature relative to  
33 procedures which will voluntarily encourage private property  
34 owners to preserve and protect sacred places in a natural state and  
35 to allow appropriate access to Native American religionists for  
36 ceremonial or spiritual activities.

37 (d) To appoint necessary clerical staff.

38 (e) To accept grants or donations, real or in kind, to carry out  
39 the purposes of this chapter.

1 (f) To make recommendations to the Director of Parks and  
2 Recreation and the California Arts Council relative to the California  
3 State Indian Museum and other Indian matters touched upon by  
4 department programs.

5 (g) To bring an action to prevent severe and irreparable damage  
6 to, or assure appropriate access for Native Americans to, a Native  
7 American sanctified cemetery, place of worship, religious or  
8 ceremonial site, or sacred shrine located on public property,  
9 pursuant to Section 5097.97. If the court finds that severe and  
10 irreparable damage will occur or that appropriate access will be  
11 denied, and appropriate mitigation measures are not available, it  
12 shall issue an injunction, unless it finds, on clear and convincing  
13 evidence, that the public interest and necessity require otherwise.  
14 The Attorney General shall represent the commission and the state  
15 in litigation concerning affairs of the commission, unless the  
16 Attorney General has determined to represent the agency against  
17 whom the commission's action is directed, in which case the  
18 commission shall be authorized to employ other counsel. In any  
19 action to enforce the provisions of this subdivision the commission  
20 shall introduce evidence showing that such cemetery, place, site,  
21 or shrine has been historically regarded as a sacred or sanctified  
22 place by Native American people and represents a place of unique  
23 historical and cultural significance to an Indian tribe or community.

24 (h) To request and utilize the advice and service of all federal,  
25 state, local, and regional agencies.

26 (i) To assist Native Americans in obtaining appropriate access  
27 to sacred places that are located on public lands for ceremonial or  
28 spiritual activities.

29 (j) To assist state agencies in any negotiations with agencies of  
30 the federal government for the protection of Native American  
31 sacred places that are located on federal lands.

32 (k) To mediate, upon application of either of the parties, disputes  
33 arising between landowners and known descendents relating to  
34 the treatment and disposition of Native American human burials,  
35 skeletal remains, and items associated with Native American  
36 burials.

37 The agreements shall provide protection to Native American  
38 human burials and skeletal remains from vandalism and inadvertent  
39 destruction and provide for sensitive treatment and disposition of  
40 Native American burials, skeletal remains, and associated grave

goods consistent with the planned use of, or the approved project on, the land.

(l) To assist interested landowners in developing agreements with appropriate Native American groups for treating or disposing, with appropriate dignity, of the human remains and any items associated with Native American burials.

(m) *To provide each Native American tribe, as defined in Section 21073, on or before July 1, 2016, with a list of all public agencies that may be a lead agency pursuant to Division 13 (commencing with Section 21000) within the geographic area with which the tribe is traditionally and culturally affiliated, the contact information of those public agencies, and information on how the tribe may request the public agency to notify the tribe of projects within the jurisdiction of those public agencies for the purposes of requesting consultation pursuant to Section 21080.3.1.*

~~SEC. 2.~~

SEC. 3. Section 21073 is added to the Public Resources Code, to read:

21073. “Native American tribe” means a federally recognized Indian tribe located in California.

~~SEC. 3.~~

SEC. 4. Section 21074 is added to the Public Resources Code, to read:

21074. (a) ~~(1)~~ “Tribal cultural resources” are either of the following:

~~(A)~~

(I) Sites, features, places, and objects with cultural value to descendant communities, ~~as those communities are described in the 1990 Guidelines for Evaluating and Documenting Traditional Cultural Properties, National Register Bulletin 38, National Register of Historic Places, National Park Service, Washington D.C., communities or cultural landscapes that are consistent with the guidance of the United States National Park Service and the federal Advisory Council on Historic Preservation, landscapes,~~ that are any of the following:

~~(i)~~

(A) Included in the California Register of Historical Resources.

~~(ii)~~

(B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

1     ~~(iii)~~

2     (C) A resource deemed to be significant pursuant to criteria set  
3     forth in subdivision (c) of Section 5024.1.

4     ~~(B)~~

5     (2) Sacred places including, but not limited to, Native American  
6     sanctified cemeteries, places of worship, religious or ceremonial  
7     sites, or sacred shrines that meet either of the following criteria:

8     ~~(i)~~

9     (A) Listed on the California Native American Heritage  
10    Commission's Sacred Lands File pursuant to Section 5097.94 or  
11    ~~5097.96; 5097.96 for which a Native American tribe has submitted~~  
12    ~~sufficient evidence demonstrating that the sacred places are of~~  
13    ~~special religious or social significance to the Native American~~  
14    ~~tribe or contain known graves and cemeteries of Native Americans.~~

15    ~~(ii)~~

16    (B) Listed or determined pursuant to criteria set forth in  
17    subdivision (g) of Section 5024.1 to be eligible for listing in the  
18    California Register of Historical Resources.

19    ~~(2) The fact that a resource is not included in the California~~  
20    ~~Register of Historic Places, not listed in California Native~~  
21    ~~American Heritage Commission's Sacred Lands File, not included~~  
22    ~~in a local register of historical resources, not deemed significant~~  
23    ~~pursuant to criteria set forth in subdivision (c) of Section 5024.1,~~  
24    ~~or not deemed eligible pursuant to criteria set forth in subdivision~~  
25    ~~(g) of Section 5024.1 for listing in the California Register of~~  
26    ~~Historic Places shall not preclude a lead agency from determining~~  
27    ~~whether the resource is a tribal cultural resource for the purposes~~  
28    ~~of this division.~~

29    ~~(b) A cultural landscape that meets the criteria of subdivision~~  
30    ~~(a) is a tribal cultural resource to the extent that the landscape is~~  
31    ~~geographically defined in terms of the size and scope of the~~  
32    ~~landscape.~~

33    ~~(b)~~

34    (c) A historical resource described in Section 21084.1, a unique  
35    archaeological resource as defined in subdivision (g) of Section  
36    21083.2, or a "nonunique archaeological resource" as defined in  
37    subdivision (h) of Section 21083.2 may also be a tribal cultural  
38    resource if it conforms with the criteria of ~~paragraph (1) of, or the~~  
39    ~~lead agency determines the resource to be a tribal cultural resource~~  
40    ~~pursuant to paragraph (2) of, subdivision (a).~~



~~SEC. 4.~~

SEC. 5. Section 21080.3.1 is added to the Public Resources Code, to read:

21080.3.1. (a) Native American tribes that are traditionally and culturally affiliated with a geographic area may have expertise concerning their tribal cultural resources and may assist the lead agency in identifying, interpreting, and determining significance of tribal cultural resources and whether an impact of a proposed project to a tribal cultural resource is significant. *resources.*

(b) Prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project, the lead agency shall consult, regarding the appropriate level of environmental review for a project, *begin consultation* with a Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in ~~that the geographic area, area that is traditionally and culturally affiliated with the tribe,~~ and (2) the Native American tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation. For purposes of this section, *“Consultation” section and Section 21080.3.2, “consultation”* shall have the same meaning as provided in Section ~~21080.3.2.~~ 65352.4 of the Government Code.

(c) To expedite the requirements of this section, the Native American Heritage Commission shall assist the lead agency in identifying the traditionally and culturally affiliated Native American tribes. ~~The tribes within the project area. Within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to the designated contact of, or a tribal representative of, traditionally and culturally affiliated Native American tribes that have requested notice notice, which shall be accomplished by means of at least one written notification that includes information about the project and the project location and description, consistent with the information about the project required to be provided under paragraph (1) of subdivision (b) of Section 21092, and shall be deemed sufficient to qualify as formal notification pursuant to subdivision (b).~~ *a brief description of the proposed project and its location, the lead agency contact*

1 *information, and a notification that the tribe has 30 days to request*  
2 *consultation pursuant to this section.*

3 *(d) The lead agency shall begin the consultation process within*  
4 *14 days of receiving a Native American tribe's request for*  
5 *consultation.*

6 ~~SEC. 5.~~

7 SEC. 6. Section 21080.3.2 is added to the Public Resources  
8 Code, to read:

9 ~~21080.3.2. (a) For the purposes of this section and Section~~  
10 ~~21080.3.1, "consultation" means the process of acting in good~~  
11 ~~faith in seeking, discussing, and considering carefully the view of~~  
12 ~~others, and, where feasible, seeking agreement. Consultation~~  
13 ~~between public agencies and Native American tribes shall be~~  
14 ~~conducted in a way that is mutually respectful of each party's~~  
15 ~~sovereignty, tribal cultural values, and confidentiality as provided~~  
16 ~~in Section 21082.3.~~

17 ~~(b)~~

18 21080.3.2. (a) As a part of the consultation process, pursuant  
19 to Section 21080.3.1, the parties may propose mitigation measures,  
20 including, but not limited to, those recommended in Section  
21 21084.3, capable of avoiding or substantially lessening potential  
22 significant impacts to a tribal cultural resource or alternatives that  
23 would avoid significant impacts to a tribal cultural resource. If the  
24 Native American tribe requests consultation regarding alternatives  
25 to the project, recommended mitigation measures, or significant  
26 effects, the consultation shall include those topics. The consultation  
27 may include discussion concerning the significance of tribal  
28 cultural resources, the significance of the project's impacts on the  
29 tribal cultural resources, and, if necessary, project alternatives or  
30 the appropriate measures for preservation or mitigation that the  
31 Native American tribe may recommended to the lead agency.

32 ~~(c)~~

33 ~~(b) The consultation shall be considered concluded at the point~~  
34 ~~at which the authorized representative of the lead agency~~  
35 ~~participating in the consultation or the Native American tribe,~~  
36 ~~acting in good faith, concludes that mutual agreement cannot be~~  
37 ~~reached. when either of the following occurs:~~

38 *(1) The parties agree to measures to mitigate or avoid a*  
39 *significant effect on a tribal cultural resource.*

1     (2) *A party, acting in good faith and after reasonable effort,*  
2     *concludes that mutual agreement cannot be reached concerning*  
3     *appropriate measures to be taken that would mitigate or avoid a*  
4     *significant effect on a tribal cultural resource.*

5     ~~(d)~~

6     (c) (1) This section does not limit the ability of a Native  
7     American tribe or the public to submit information to the lead  
8     agency regarding the significance of the tribal cultural resources,  
9     the significance of the project's impact on tribal cultural resources,  
10    or any appropriate measures to mitigate the impact.

11    (2) This section does not limit the ability of the lead agency or  
12    project proponent to incorporate changes and additions to the  
13    project as a result of the consultation, even if not legally required.

14    (3) This section is not intended to replace the existing mitigation  
15    preference for historical and archaeological resources requiring  
16    the lead agency, when feasible, to first consider preservation in  
17    place.

18    ~~(e)~~

19    (d) If the project proponent or its consultants participate in the  
20    consultation, those parties shall respect the principles set forth in  
21    this section.

22    ~~(f)~~

23    (e) This section shall apply only to a project that has a notice  
24    of preparation or a notice of negative declaration or mitigated  
25    negative declaration filed on or after January 1, 2015.

26    ~~SEC. 6.~~

27    SEC. 7. Section 21082.3 is added to the Public Resources Code,  
28    to read:

29    21082.3. (a) Any mitigation measures agreed upon in the  
30    consultation conducted pursuant to Section 21080.3.2 shall be  
31    recommended for inclusion in the environmental document and  
32    in an adopted mitigation monitoring program, if determined to  
33    avoid or lessen the impact pursuant to paragraph (2) of subdivision  
34    (b), and shall be fully ~~enforceable~~. *enforceable*.

35    (b) If a project may have a significant impact on a tribal cultural  
36    resource, the lead agency's environmental document shall discuss  
37    both of the following:

38    (1) Whether the proposed project has a significant impact on  
39    an identified tribal cultural resource.

(2) Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to subdivision (a), avoid or substantially lessen the impact ~~to~~ on the identified tribal cultural resource.

(c) (1) Any information, including, but not limited to, the location, nature, and use of the tribal cultural ~~resource~~ *resources*, that is submitted by a Native American tribe during the consultation process may not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public without the prior consent of the tribe that provided the information. If the lead agency publishes any information submitted by a Native American tribe during the consultation process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. This subdivision does not prohibit the confidential exchange of the submitted information between public agencies that have lawful jurisdiction over the preparation of the environmental document.

(2) This subdivision does not affect or alter the application of subdivision (r) of Section 6254 of the Government Code.

(3) This subdivision does not prevent a lead agency or other public agency from describing the information in general terms in the environmental document so as to inform the public of the basis of the lead agency's or other public agency's decision without breaching the confidentiality required by this subdivision.

(d) The lead agency may certify an environmental impact report or adopt a mitigated negative declaration for a project with a significant impact on an identified tribal cultural resource only if one of the following occurs:

(1) Mitigation measures agreed to during the consultation process pursuant to subdivision (a) or another agreement have been recommended to the decisionmaking body of the lead agency as mitigation measures in the final environmental document and mitigation monitoring program.

(2) The Native American tribe accepts the mitigation measures proposed in the draft or final environmental document and mitigation monitoring and reporting program.

(3) Consultation between the Native American tribes and the lead agency has occurred pursuant to Section 21080.3.2.

(e) If the mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of the consultation, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to subdivision (b) of Section 21084.3.

(f) This section is not intended, and may not be construed, to limit consultation between the state and tribal governments, existing confidentiality provisions, or the protection of religious exercise to the fullest extent permitted under state and federal law.

(g) This section shall apply only to a project that has a notice of preparation or a notice of negative declaration or mitigated negative declaration filed on or after January 1, 2015.

~~SEC. 7:~~

*SEC. 8.* Section 21083.09 is added to the Public Resources Code, to read:

21083.09. On or before January 1, 2016, the Office of Planning and Research shall prepare and develop, and the Secretary of the Natural Resources Agency shall certify and adopt, revisions to the guidelines that update Appendix G of Chapter 3 (commencing with Section 15000) of Division 6 of Title 4 of the California Code of Regulations to do both of the following:

(a) Separate the consideration of paleontological resources from cultural resources and update the relevant sample questions.

(b) Add consideration of tribal cultural resources with relevant sample questions.

~~SEC. 8:~~

*SEC. 9.* Section 21084.2 is added to the Public Resources Code, to read:

21084.2. (a) A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.

(b) This section shall apply only to a project that has a notice of preparation or a notice of negative declaration or mitigated negative declaration filed on or after January 1, 2015.

1     ~~SEC. 9.~~

2     ~~SEC. 10.~~ Section 21084.3 is added to the Public Resources  
3 Code, to read:

4     21084.3. (a) Public agencies shall, when feasible, seek to avoid  
5 damaging effects to any tribal cultural resource.

6     (b) If the lead agency determines that a project may cause a  
7 substantial adverse change to a tribal cultural resource, and  
8 measures are not otherwise identified in the consultation process  
9 provided in Section 21080.3.2, the following are examples of  
10 mitigation measures that, if feasible, may be considered to avoid  
11 or minimize the significant adverse impacts:

12     (1) Avoidance and preservation of the resources in place,  
13 including, but not limited to, planning and construction to avoid  
14 the resources and protect the cultural and natural context, or  
15 planning greenspace, parks, or other open space, to incorporate  
16 the resources with culturally appropriate protection and  
17 management criteria.

18     (2) Treating the resource with culturally appropriate dignity  
19 taking into account the tribal cultural values and meaning of the  
20 resource, including, but not limited to, the following:

21     (A) Protecting the cultural character and integrity of the  
22 resource.

23     (B) Protecting the traditional use of the resource.

24     (C) Protecting the confidentiality of the resource.

25     (3) Permanent conservation easements or other interests in real  
26 property, with culturally appropriate management criteria for the  
27 purposes of preserving or utilizing the resources or places.

28     (4) Protecting the resource.

29     (c) This section shall apply only to a project that has a notice  
30 of preparation or a notice of negative declaration or mitigated  
31 negative declaration filed on or after January 1, 2015.

32     ~~SEC. 10.~~

33     ~~SEC. 11.~~ (a) This act does not alter or expand the applicability  
34 of the California Environmental Quality Act (Division 13  
35 (commencing with Section 21000) of the Public Resources Code)  
36 concerning projects occurring on Native American tribal  
37 reservations or rancherias.

38     (b) This act does not prohibit any Native American tribe or  
39 nonfederally recognized tribe from participating in the California

1 Environmental Quality Act on any issue of concern as an interested  
2 person, citizen, or member of the public.

3 (c) This act does not prohibit any lead agency from consulting  
4 with nonfederally recognized Native American tribes.

5 ~~SEC. 11.~~

6 *SEC. 12.* No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 a local agency or school district has the authority to levy service  
9 charges, fees, or assessments sufficient to pay for the program or  
10 level of service mandated by this act, within the meaning of Section  
11 17556 of the Government Code.

O